

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,                     )  
   )  
                                  Plaintiff,                     )  
   )  
                                  vs.                     ) No. 1:16CR00058AGF (ACL)  
   )  
JAMES CLAY WALLER, II,                     )  
   )  
                                  Defendant.                     )

**GOVERNMENT'S RESPONSE TO COURT'S ORDER**  
**CONCERNING RULE 12(b) DISCLOSURE**

Comes now the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Larry H. Ferrell, Assistant United States Attorney for said District, and for the Government's Response in accordance with the Court's Order Concerning Pretrial Motions states as follows:

**RULE 12(b) DISCLOSURE**

Rule 12(b)(4)(B) provides:

"At the arraignment or as soon thereafter as is practicable defendant may, in order to afford an opportunity to move to suppress evidence under Rule 12(b)(3)(C), request notice of the government's intention to use (in its evidence in chief at trial) any evidence which defendant may be entitled to discover under Rule 16. (emphasis added)

In accordance with the dictates of Rule 12(b)(4)(B) the Government intends to use the following referenced evidence at trial:

1. **Written Records Containing Substance of Oral Statements**

The substance of any relevant oral statement made by the defendant in response to interrogation by a known government agent is that Waller traveled from the State of Illinois on

June 1, 2011 into the State of Missouri where he murdered his wife, Jacque Sue Waller, and that Waller had dug the grave he buried her in the day before. This statement was taken at the FBI Headquarters in Cape Girardeau on June 3, 2013 was video and audio recorded and been provided to the defense.

FBI Agent Brian Ritter wrote a report concerning the oral statement and recorded statement made by the defendant at the interview on June 3, 2013. A copy of that report has been supplied to the defense.

2. **Relevant Written or Recorded Statements**

The defendant has made one written statement which is contained in the manuscript of a book entitled "If You Take My Kids, I Will Kill You," A copy of which has been provided to the defense.

The defendant has made two statements which were recorded: (1) an interview given at the FBI Headquarters in Cape Girardeau, Missouri on June 3, 2013. A video and audio copy of that interview has been supplied to the defense; (2) On June 6, 2013, the defendant entered a plea of guilty to the offense of Murder in the Second Degree, in the Circuit Court of Cape Girardeau County. A transcript of the plea has been provided to the defense.

3. **Grand Jury Testimony**

The defendant has not testified before a grand jury relating to the offense charged.

4. **Defendant's Prior Record**

A copy of defendant's prior record is being provided to counsel for the defendant.

5. **Documents and Tangible Objects**

Upon request, the Government will make available to the defendant for inspection or copying any items within the Government's possession, custody, or control which (1) which is

material to preparing the defense, (2) the Government intends to use in its case-in-chief at trial, or (3) was obtained from or belongs to the defendant which could arguably be subject to suppression, including:

- (a) All items discovered during the execution of a state search warrant on June 2, 2011 at 1121 Woodland in Jackson, Missouri.
- (b) All items discovered during a consent search of the residence located at 1121 Woodlawn on June 6, 2011.
- (c) A recording of the defendant's interview at FBI headquarters in Cape Girardeau, Missouri, on June 3, 2013.
- (d) A transcript and recording of the defendant's plea of guilty to the offense of murder in the second degree in the Circuit Court of Cape Girardeau County on June 6, 2013.
- (e) The manuscript of a book entitled, "If You Take My Kids, I Will Kill You."

7. **Reports of Examinations and Tests**

The Government may introduce into evidence in its case in chief testimony regarding the following reports of examinations and tests:

- (a) The reports of Medical Examiner Mary Case and Forensic Anthropologist Aaron Ogle concerning examination of the remains of Jacque Sue Waller;
- (b) The reports of Tom Dezel concerning blood spatter evidence observed at 1121 Woodland, Jackson, Missouri on June 6, 2011;
- (c) The reports of Special Agent Brian Ritter of event reconstruction conducted on December 9, 2015; and

- (d) The reports of Special Agent John Hauger and Special Agent Brian Ritter concerning cell phone signal tests conducted on November 18, 2013.

RICHARD G. CALLAHAN  
UNITED STATES ATTORNEY

/s/ Larry H. Ferrell  
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2016, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Scott F. Tilsen  
Assistant Federal Public Defender

/s/ Larry H. Ferrell  
Larry H. Ferrell, #28874MO  
Assistant United States Attorney